

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION**

**MICHAEL COMER, ID # 37478-177,)
Movant,)
vs.)
UNITED STATES OF AMERICA,)
Respondent.)**

**No. 3:09-CV-1261-N-BH
No. 3:08-CR-0085-N (01)**

**ORDER ACCEPTING FINDINGS, CONCLUSIONS, AND RECOMMENDATION
AND DENYING CERTIFICATE OF APPEALABILITY**

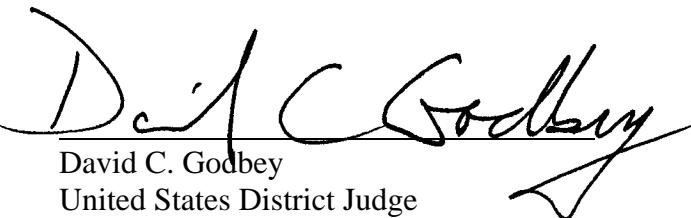
After reviewing all relevant matters of record in this case, including the Findings, Conclusions, and Recommendation of the United States Magistrate Judge and any objections thereto, in accordance with 28 U.S.C. § 636(b)(1), the undersigned District Judge is of the opinion that the Findings and Conclusions of the Magistrate Judge are correct and they are accepted as the Findings and Conclusions of the Court.

For the reasons stated in the recommendation, the Court **DENIES** Movant's motion to strike (doc. 22 in civil action), and considers the document as his reply brief. By separate judgment, the Court will formally deny Movant's motion to vacate consistent with the recommendation entered in this case.

In accordance with Fed. R. App. P. 22(b) and 28 U.S.C. § 2253(c) and after considering the record in this case and the recommendation of the Magistrate Judge, the Court **DENIES** Movant a Certificate of Appealability for the reasons stated in the recommendation, which are adopted and incorporated by reference in support of its finding that Movant has failed to make a substantial showing of the denial of a constitutional right. *See Miller-El v. Cockrell*, 537 U.S. 322, 338 (2003); *Slack v. McDaniel*, 529 U.S. 473, 483-84 (2000); 28 U.S.C. § 2253(c)(2). In the event that Movant files a notice of appeal, he is informed that he must pay the \$455.00 appellate filing fee or submit

a motion to proceed *in forma pauperis* that is accompanied by a properly signed certificate of inmate trust account.

SIGNED December 18, 2009.



David C. Godbey
United States District Judge